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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,016	12/30/2003	John W. Hoffman	18,996	9322
23556	7590	10/05/2005		
KIMBERLY-CLARK WORLDWIDE, INC. 401 NORTH LAKE STREET NEENAH, WI 54956			EXAMINER SCHATZ, CHRISTOPHER	
			ART UNIT 1733	PAPER NUMBER
DATE MAILED: 10/05/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/750,016

Applicant(s)

HOFFMAN ET AL.

Examiner

Christopher T. Schatz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-14 is/are pending in the application.
- 4a) Of the above claim(s) 10-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-9,13 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-9, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over VanGompel et al. '922 in view of Herrin '345, Ujimoto et al. 340, Coenen et al. (WO 02/13741) (newly cited), and optionally in view Milner et al. (2001/0042591) (newly cited). VanGompel discloses an article web 20, said article web comprising: an elastic member 60 wherein at least a portion of said elastic member is elongatable to define an elastic member width (column 8, lines 48-50); an inboard portion 58 and an outboard side portion 90. VanGompel further discloses that when said elastic member is applied to said article web, the outboard portions of said elastic member extend beyond edges 28 of said article web (figure 1, figure 7, column 2, lines 41-54, column 9, lines 38-49). VanGompel does not explicitly disclose a method of making said article web by using the machine and rotatable wheels as claimed by applicant. It should be noted that VanGompel does state that the elastic member 60 was applied to the article in a tensioned state (contactable) as described in column 9, lines 9-17).

Herrin discloses a method for applying an elastic member 22 to an article web 18, said method comprising of: providing an elastic member, wherein at least a portion of the said elastic member is elongated in a cross machine direction (column 1, lines 49-52); moving said elastic member in a machine direction along an elastic member web path (column 2, lines 12-17) (Figure 6); providing a pair of rotatable wheels 68,78 in said elastic member web path, said wheels defining: a pair of inboard edges 76,86 and a pair of outboard edges opposite said inboard edges (Figure 6), an elastic entry location 92 having a width that is less than the width of the elastic member (column 2, lines 19-21); and an elastic member exit location 94 having a width that is greater than the width of the entry location (figure 6); engaging the elastic member with the pair of wheels at said elastic member entry location (column 4, lines 36-38) , wherein a portion of the elastic member is located beyond the each said inboard potion of said pair of wheels thereby defining a pair of outboard portions 22B,22C and an inboard portion of the elastic member (Figure 6); and rotating the elastic member with said pair of wheels and applying said elastic member to the article web at the elastic member exit location (column 4, lines 46-51). The method recited by Herrin is well known in the art of applying an elastic member to an article web, and, since Herrin discloses the existence of both inboard and outboard portions of the elastic member during cross-machine stretching, the use of the method taught by Herrin to produce the novel, zone-stretched product taught by VanGompel would have been obvious to one of ordinary skill in the art as the reference to VanGompel suggested application of the member in a tensioned state.

VanGompel and Herrin are silent as to a method of providing an elastic material, said method comprising: forming a line of weakness in said elastic material to define a trailing edge

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of the elastic material; cutting said elastic material to define a leading edge of an elastic member; and separating said elastic material at said line of weakness into discrete elastic members.

Ujimoto et al. discloses a method of providing an elastic web material, said method comprising: defining a trailing edge of the elastic material along a severance axis and then cutting said elastic material to define a leading edge of an elastic member (column 2, lines 1-5); and separating said elastic material along a severance axis into discrete elastic members (column 2, lines 46-51).

Separating said elastic web material at said severance axis to define a leading edge is advantageous because, as disclosed by Ujimoto et al., doing so simplifies the production process (column 2, lines 46-59). Therefore, at the time of the invention it would have been obvious to a person of ordinary skill in the art to separate the elastic web material at said severance to form discrete elastic members as taught by Ujimoto et al. above in the process of applying an elastic member to an article web material as set forth above by VanGompel and Herrin.

The reference is silent, however, as to the formation of a line of weakness in the elastic material web to define a trailing edge of the elastic member. Coenen et al. discloses a method for applying an elastic member to an article web wherein a line of weakness is formed in said elastic material to define a trailing edge of said elastic member and subsequently separating the elastic material web at said line of weakness into discrete elastic members (page 10, lines 19-24, page 11, 3-6). Forming a line of weakness to define a trailing edge of an elastic member and subsequently separating the elastic material web at said line of weakness into discrete elastic members is advantageous because, as disclosed by Coenen et al., doing so makes the separation of the elastic material web easier (page 10, lines 22-24). Therefore, at the time of the invention it would have been obvious to a person of ordinary skill in the art to modify the method disclosed

by VanGompel, Herrin, and Ujimoto et al. by forming a line of weakness to define a trailing edge of an elastic member and subsequently separating the elastic material web at said line of weakness as taught by Coenen et al.

As to claim 3, Ujimoto et al. discloses a method of providing an adhesive application assembly to apply an operative amount of adhesive to said elastic material web (column 2, lines 56-57). As to claim 4, Ujimoto et al. discloses a method wherein an operative amount of adhesive A is applied in a rectilinear pattern (figure 2). As to claim 5, Ujimoto et al. discloses a method wherein an operative amount of adhesive is registered with a leading edge and a trailing edge of an elastic member (column 4, lines 50-51). Note the reference discloses that the adhesive can be applied in an intermittent form as an alternative to a continuous form. Although the reference does not explicitly recite the phrase “registered with the leading and trailing edges of the elastic member,” the reference does disclose that it is advantageous to have the adhesive registered with the longitudinal edges (column 2, lines 56-59). Thus, one of ordinary skill in the art would have understood at the time the invention was made that an operative adhesive could be applied intermittently to the uncut elastic members such that said operative amount of adhesive is registered with the leading and trailing edge. As to claim 6, Ujimoto et al. discloses a method wherein an operative amount of applied adhesive does not contact the pair of wheels (column 5, lines 63-68). As to claim 7, VanGompel discloses a method wherein the bottom edge of the elastic member 60 is joined to the article web material (at location 68) and can take on a curvilinear shape (figure 7, column 9, lines 63-67) While VanGompel does not explicitly disclose that said bottom edge is a “trailing” edge, the bottom edge would be considered a trailing edge during the method of applying an elastic member to an article web material as set

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forth by Herrin. As to claim 8, Herrin discloses a method wherein the trailing edge of the elastic member defines a "w" shape (figure 2). The obviousness of using the method disclosed by Herrin to make the product disclosed by VanGompel is explained in the discussion of claim 1 above, and hence claims 7 and 8 are rendered obvious. As to claim 9, Ujimoto et al. discloses a method wherein the elastic member is held on the pair of wheels by means of a vacuum 22a, 22b, 24. The use of a vacuum to hold said elastic member to said pair of wheels is advantageous, as disclosed by Ujimoto et al., because doing so provides sufficient suction force to hold said elastic member while said elastic member is passed through the elongation system (column 5, lines 53-39). Therefore, at the time of the invention it would have been obvious to a person of ordinary skill in the art to use vacuum suction to hold said elastic member to said pair of wheels as taught by Ujimoto et al. above in the process of applying an elastic member to an article web material as set forth above by VanGompel and Herrin. As to claim 13, Herrin discloses that the inboard portion of an elastic member is elongated at least 50%. Note that although the reference does not explicitly recite that the inboard portion is elongated by more than 50%, it is clear upon examination of figure 6, that the length of the outlet portion 94 of the rollers is greater than 50% of the length of the inlet portion 92. Thus, one of ordinary skill in the art would have understood that the inboard portion of the elastic member would be elongated by at least 50%.

While it is believed that Coenen et al. clearly envisioned the use of a formation of a line of weakness prior to cutting an elastic web in order to make separation of the continuous supply of elastic into discrete portions easier, the reference was in fact separating elastics for formation of leg elastics rather than waist elastics. Nonetheless, one skilled in the art would have understood that the use of such a formation of a line of weakness would have been useful in the

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formation of a waistband (waist elastics) in light of the teachings Milner et al. Milner et al. taught the formation of a line of weakness in an elastic which was later designated to be the waist elastic where such a line of weakness made separation easier (paragraph 0017). Therefore, at the time of the invention it would have been obvious to a person of ordinary skill in the art to form a line of weakness to define a trailing edge of an elastic waist member as taught by Milner et al. above in the process of applying an elastic member to an article web as set forth above by VanGompel, Herrin, Ujimoto et al., and Coenen et al.

3. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable VanGompel et al., Herrin, Ujimoto et al., Coenen et al., and Milner et al. as applied to claim 1 above, and in further view of Ruscher et al. '793. VanGompel et al., Herrin, Ujimoto et al., Coenen et al., and Milner et al. disclose a method as stated in claim 1, but the references fail to disclose a specified diameter for each wheel. Ruscher et al. discloses a method of applying an elastic member to an article web material wherein the diameter of each wheel is between 0.3 and 2.0 meters (column 5, lines 1-12). Using wheels with the specified diameter range is advantageous because, as disclosed by Ruscher et al., doing so allows the article web material to pass through at least one of the wheels before the elastic member is bonded to said article web (column 8, lines 17-21). Therefore, at the time of the invention it would have been obvious to a person of ordinary skill in the art use wheels with said specified diameter as taught by Ruscher et al. above in the process of applying an elastic member to an article web material as set forth above by VanGompel et al., Herrin, Ujimoto et al., Coenen et al., and Milner et al.

Response to Arguments

Applicant's arguments with respect to claims 1, 3-9, 13, and 14 have been considered but are moot in view of the new ground(s) of rejection. Applicant argues that VanGompel et al. and Herrin fail to disclose all the element of claim 1, as amended, because the limitations of claim 2 have been added to claim 1. Examiner asserts that because of the addition of the Ujimoto et al., Coenen et al., and Milner et al references, all the limitations of claim 1 are now met. Applicant argues that VanGompel et al., Herrin, and Ujimoto et al. fail to disclose "forming a line of weakness in said elastic material web to define a trailing edge of the elastic member;...cutting said elastic material web to define a trailing edge of the elastic member; and...separating said elastic material web at said line of weakness into discrete elastic members." Examiner acknowledges that none of the references used in the office action dated May 3, 2005 disclose the limitation of "forming a line of weakness in said elastic material web to define a trailing edge of the elastic member." Examiner asserts however, that VanGompel et al., Herrin, and Ujimoto, in combination with Coenen et al., and Milner et al., render this limitation obvious (see paragraph 2 above). Additionally, examiner asserts that Ujimoto et al. does disclose the step "cutting an elastic material web to define a trailing edge of the elastic member" for the reasons stated in paragraph 2 above.

Applicant argues that figure 2 of VanGompel does not disclose an elastic member including a trailing edge defining a "w" shape. Applicant should note that examiner never made such a statement. Examiner asserted that figure 2 of the *Herrin* reference discloses an elastic member including a trailing edge defining a "w" shape. Figure 7 of the VanGompel reference

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discloses a curvilinear shape (at location 68) Applicant is referred to page 5, lines 13-19 of examiners previous office action.

Applicant argues that Rusher does not disclose the limitation of “forming a line of weakness in said elastic material web to define a trailing edge of the elastic member;...cutting said elastic material web to define a trailing edge of the elastic member; and...separating said elastic material web at said line of weakness into discrete elastic members.” Examiner asserts that it is not necessary for Rusher to disclose such a limitation since the combination of VanGompel et al., Herrin, Ujimoto et al., Coenen et al., and Milner et al. render the limitation obvious.

Conclusion

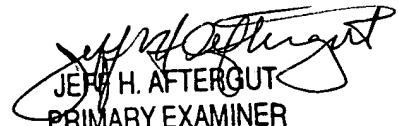
Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Christopher T. Schatz** whose telephone number is **571-272-1456**. The examiner can normally be reached on 10:00-7:30, Monday -Thursday, 10:00-6:30 Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on 571-272-1171. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CTS


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